

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
July 1, 2010

The Common Council of the City of West Lafayette, Indiana, met in the Lower Level Conference Room at City Hall on July 1, 2010, at the hour of 4:30 p.m.

Mayor Dennis called the meeting to order and presided.

Present: Bunder, Burch, Hoggatt, Hunt, and Thomas.

Absent: Dietrich and Keen.

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, Assistant Superintendent of Parks Ainsworth, Police Chief Dombkowski, Street Commissioner Downey, Fire Chief Drew, Human Resources Director Foster, WWTU Director Henderson, Parks Superintendent Payne, Director of Development Poole, and Assistant City Engineer Thompson.

Mayor Dennis reviewed agenda items, noting that Director of Development Poole will report on the Quadraspec discussion, which will be held later in this meeting, at the Council meeting on Tuesday. Additionally, the Mayor will present the Beautification Award, and the Police Officer of the Quarter Award will be made by Chief Dombkowski.

UNFINISHED BUSINESS: None.

NEW BUSINESS

Ordinance No. 14-10 An Ordinance Providing for Payment Of Fire Hydrant Rental Costs By Indiana American Water Company Ratepayers (Sponsored by Mayor John Dennis)

Mayor Dennis read Ordinance No. 14-10 by title. He explained that Indiana-American Water Company increased their fire hydrant fees by 138%, which is approximately \$20,000-\$22,000 per month additional for the City to pay. The City cannot continue to pay those increased rates without substantial cuts in the General Fund. Ordinance No. 14-10 was drafted with the intent of passing the fire hydrant fees off to the users. The rate will be calculated on the size of meter that the users have. A 5/8-inch meter size will increase about \$2.37 per month, and the 3-inch meter will increase about \$35.54 per month. For the City to continue to provide the high quality services, Mayor Dennis said, the Council needs to take a hard look at this issue.

Councilor Burch asked for clarification of the meter sizes and rates. Clerk-Treasurer Rhodes answered that there are about 7,300 billings per month, and nearly 6,700 have the 5/8-inch meters as typical residential customers. Those will have increases of about \$2.37 per month. Clerk-Treasurer Rhodes referred the Council to page 16 of the 2009 WWTU Annual Financial Management Report prepared by O.W. Krohn & Associates for the listing of current meter sizes and rates.

Councilor Hunt questioned the semantics of the ordinance, in the last paragraph. The paragraph reads, "The effective date for addition of these changes in the basic rate shall by January 1, 2011 and that after said date, the cost of any fire hydrant installed at the request of

the City shall be paid by or on behalf of the City.” City Attorney Burns responded that he took the language from the State statute and that, while cumbersome, he recommended leaving the wording as it appears. Hydrants in any new area would be paid by the developer, as that is part of the requirements for development. That cost would be paid on behalf of the City, as it is the City’s responsibility. It is incumbent on the City to ensure that the developer pays for the hydrants in new areas. Councilor Hunt asked if there were a cost for a replacement hydrant. City Attorney Burns answered that there would be no cost to the City for a replacement hydrant, but the cost to install a new hydrant in an existing area would be the City’s responsibility.

Councilor Hunt asked whether it was possible for landlords to trade Circuit Breaker credits for increased hydrant fees. Clerk-Treasurer Rhodes replied that all the landlords have Circuit Breaker credits and they have reached the caps for credits. Landlords own property with meters across the whole range of sizes.

Councilor Hoggatt asked whether the City’s current payments for hydrants come out of the City’s General Fund. Clerk-Treasurer Rhodes answered that the payments had been coming out of the General Fund, until the Circuit Breaker came into existence. Now City payments for hydrants come from Economic Development Income Tax, EDIT, which can be used for any City operational expenses. The City is faced with a budget shortfall of approximately \$60,000 by year-end, because of the hydrant rate increase, based on the current program to pay for those costs. Councilor Hoggatt asked if the costs now would be shifted to ratepayers’ Wastewater bills. Clerk-Treasurer Rhodes responded that the shift would be to the water bills from Indiana-American Water. Councilor Hoggatt asked how many ratepayers of water bills are not taxpayers. He stated that the fifth and sixth WHEREAS clauses are misleading, as the money is coming from the ratepayers rather than City taxpayers; it is coming from City taxpayers. There is no lowering of taxes. Indirectly we are increasing fees. Clerk-Treasurer Rhodes stated that all of the nonprofit properties in the City, which are considerable, which are Indiana-American Water customers, would pay, and now they pay nothing. Councilor Hoggatt asked whether Westminster would pay more. City Attorney Burns affirmed that statement, and that it was his intention when the document was drafted. Mr. Burns stated that, at the current time, all of the fees for hydrants are paid by taxpayers. If Ordinance No. 14-10 passes, then there would be non-taxpaying entities which are tax-exempt that will then be paying part of the fees.

There was no further discussion.

Resolution No. 07-10 A Resolution Appropriating Housing Rehabilitation Loan Funds On Hand Resulting From Repayments Of Loans Previously Made By The West Lafayette Department of Development (Submitted by Department of Development)

Mayor Dennis read Resolution No. 07-10 by title and called on Director of Development Poole to explain the resolution.

Director of Development Poole commented that, through CDBG funds, the City has provided down payment assistance to individuals in the CDBG target area. If a house is owned by the individual who applied for an assistance loan for a number of years specified, the loan could be forgiven. A house was purchased on May 7, 2002, at 469 Maple Street. This house was sold recently, prior to the actual date when the loan would be forgiven. \$17,500 was given back to the City, but it needs to be moved out of the City and into CDBG funds for use in the program.

There was no further discussion.

Resolution No. 08-10 A Resolution To Authorize The Submission Of A State Revolving Fund Loan Application To The Indiana Finance Authority (Submitted by Mayor John Dennis)

Mayor Dennis read Resolution No. 08-10 by title and called on Wastewater Utility Director Henderson to provide details of the resolution.

Wastewater Utility Director Henderson explained that the resolution would give the Mayor authority to sign an SRF loan application to fund: the construction of a regional lift station near the Purdue Research Park; significant improvements and expansion of the Soldiers Home Lift Station, which was constructed in 1976; and, as part of the City's green initiatives projects, add a green roof to the administration building at the Wastewater Plant. The addition of the green elements to the projects would qualify, through the SRF, for a reduction in the interest rate of 0.5%. This would provide significant savings, as well as having the first green roof on a municipal building within the City. Mr. Henderson included the updated cash flow projections from Mr. Jim Treat of O.W. Krohn & Associates in the handouts about the projects. Mr. Treat's report shows that bond coverage would be more than adequate and would be done without increasing rates. When the rates were last adjusted in 2006 over a three-year period, they were adjusted with three projects in mind: the Western Sanitary Sewer Interceptor Project loan, most of which has been drawn down in the first three phases, with one more section to be constructed in conjunction with the relocation of US231; the Digester Project loan, all of which is drawn down; and approximately \$6 million of debt service anticipated. Since the \$6 million was not used, the WWTU improvement fund has grown to a healthy balance, approximately \$10.5 million. It is about \$75,000 higher at the end of June 2010 than at the end of 2009. He reviewed the representations of the projects. Mr. Henderson offered to answer questions from the Council.

Mayor Dennis summarized that Resolution No. 08-10 gives him the authority to sign the SRF loan application. Wastewater Utility Director Henderson added that the loan application does not obligate the City to take the loans. It asks SRF to review the projects and, if they are interested, discuss the items with the City. The Council would be asked to approve and adopt the Preliminary Engineering Report (PER) for the project, and there would be a public hearing. This resolution is earlier in the process than the Council usually is involved, but Mr. Henderson said that he wanted to have everyone involved and informed as the projects go forward.

Councilor Burch asked where the Soldiers Home Lift Station is. Wastewater Utility Director Henderson answered that, if one is driving north on River Road/IN43, after one drives under the US52 bridge, the lift station is immediately on the left, a small brick building with a plaque on it.

Councilor Burch asked where the regional lift station in Purdue Research Park would be located. Mr. Henderson responded that it would be in the Research Park in the Phase 3 or Phase 4 area.

City Attorney Burns asked when the rates adjust. Wastewater Utility Director Henderson said that in July, the beginning of the quarter, the rates will adjust. Mr. Burns said the rates were at an all-time low now. Mr. Henderson agreed that the SRF interest rate for loans for the City's tier is about 2.9%. If the City were to get that rate and meet all the green initiatives criteria for SRF, that 0.5% reduction would make the rate a record low for the City. The previous low for the expansion of the Plant during the 1990s was a 2.9% rate.

Councilor Thomas asked when the PERs would be ready. Wastewater Utility Director Henderson answered that he currently had draft copies for his review. The next step for the

Council is to have the PERs for review and then adopt the Preliminary Engineering Reports, so that they would be submitted officially to SRF. Councilor Thomas asked how long that would be. Mr. Henderson replied that they are close on the Soldiers Home Lift Station report, and that he should have that within a week or so. The Greeley and Hansen report might be as long as two weeks, as the lead engineer on the project is on vacation.

Councilor Hoggatt said we've been planning these projects for a while, right?

Wastewater Utility Director Henderson said yes.

Councilor Hoggatt said and when was the decision made to pursue an SRF loan?

Wastewater Utility Director Henderson said well, earlier this year, in talking with Jim Treat [WWTU financial advisor]—as you know, with the annual report, we make a very conservative estimate of cash flow, by saying, "What if we paid everything with cash, that we hadn't already planned on SRF loans." And you look at that. Looking at the green initiatives checklist, Hannum, Wagle & Cline brought that to my attention, and we looked at elements if you'd look at a rate reduction there. And it looked like, if we could get historic low interest rate, that, rather than looking at other financing options or cash, that we should look at the SRF loan.

Councilor Hoggatt said so those are probably the contributing factors, basically, between January to April, that made this decision. Like, what month would you say that, like, "Okay, we're going to pursue this decision"? Because in December, you know, the financial analysis from Jim Treat did not include SRF loans, so someone told him to put it in, and then include it into our projections.

Wastewater Utility Director Henderson said well, as I said, we start with everything from cash, and that's the most conservative approach, because we have a very healthy improvement fund balance.

Clerk-Treasurer Rhodes said he actually did address the possibility of another loan—

Councilor Hoggatt said well, the original projection of the budget did not include an SRF loan, then the new projections for the budget did include them.

Clerk-Treasurer Rhodes said I believe it was the pulling off of the timeline for the Northside Regional Lift Station, because of the PRF timeline.

Wastewater Utility Director Henderson said the Research Park has slowed down with their development plans for Phase 3 and Phase 4, which is a big contributor to this lift station, but it will also receive flow from existing lift stations that go into the combined sewer system. So we'll be able to take and relieve some of that pressure from the combined sewer system and reroute it to the Western Interceptor. But, to answer your question, I'm constantly looking at the SRF rates, and they adjust every quarter. At the time, I expected at some point, they're going to drop low. When they started to hang in there, you know, I talked to Jim Treat, and, in his professional opinion, they were going to be there for a little while. It seemed prudent, as we're moving forward with the PERs, to consider the SRF program. And if we did get 2.3% or 2.4%, I think that would be outstanding.

There was no further discussion.

COMMUNICATIONS:

► Councilor Hunt reminded that the Council meeting would be Tuesday, July 6, due to the City holiday on Monday.

SPECIAL ITEM: Council Review And Action On The Tax Abatement For Quadraspec – Director of Development Poole

Mayor Dennis called on Director of Development Poole to discuss the Quadraspec tax abatement.

Director of Development Poole reported that, at the last City Council meeting, the Council found Quadraspec to be in non-compliance with the tax abatement that it currently has, because the company sold off a core portion of its business and a core portion of its equipment. When Quadraspec's CF-1 Form was reviewed, the company's research and development equipment numbers were lower than in prior years. Part of the process is for the company to speak to the changes that may result in a change in the tax abatement. Mr. Poole said that he had run some numbers on the tax abatement, the next couple years—they've got five years left on the tax abatement for Quadraspec—on the current amount of equipment that they have in house, it equates to about \$2,000 a year for tax abatement for the next five years. This reduces the TIF fund. The tax abatement decreases through the years. Mr. Steve Plump, Quadraspec president, and Mr. Joe Chutka, in the Quadraspec finance department, were present to discuss the company's business.

Mr. Steve Plump, president of Quadraspec, reported that Quadraspec has existed for approximately five years. On July 21, 2009, Quadraspec sold a portion of its business to Antech; eight employees moved to Antech. Quadraspec has recapitalized and developed a new business model. Director of Development Poole added that the employees and the equipment remain in the Research Park in West Lafayette.

Mayor Dennis asked how many employees Quadraspec currently has. Mr. Plump responded that there are four. Mayor Dennis questioned the amount of the current abatement. Director of Development Poole answered that the current value of the abatement is roughly \$2,000 per year for the next five years.

Councilor Hunt asked if the investors in Quadraspec continued to invest. Mr. Plump responded that Quadraspec sold off Antech and is pursuing a new business model. Mr. Plump said that the company is not far from going to market, but that they were short of cash. They recapitalized to \$2.3 million in the last few weeks. Mr. Plump said he felt that this was a great sign that the new technology they are pursuing has potential. It has limited scientific risk, but more commercial risk. The company has three to four months of additional development to fine-tune, then will pilot the product before commercializing it at the beginning of next year. The business has the potential to generate several jobs in the manufacturing component. The good news is that, in the first effort, Quadraspec was able to retain the jobs, the equipment, and the knowledge in West Lafayette through Antech.

Councilor Thomas asked whether Quadraspec had reorganized. Mr. Plump answered that they created a new company called Perfinity, into which Quadraspec merged. Councilor Thomas asked for a brief overview of the business plan for the next five years. Mr. Plump stated that he would prefer not to give numbers. One of the founders is a Purdue professor who is probably a world-renowned expert in liquid chromatography and mass spectrometry. Drug development used to be a lot of small molecules. In the last 10 to 15 years, that has changed into protein-

based drugs, so these are much bigger molecules. Separating those and preparing those for mass spectrometry is a problem that requires tremendous amounts of effort, time, money, etc. It basically even limits patent life of drugs, because it takes so much time that it chews up patent life. What the founders developed is a system that starts to enable the efficient separation of the protein drugs and get them ready for further analysis. That takes the process to small molecules. Perfinity/Quadrascpec will be producing and selling consumables used in these processes. Councilor Burch asked for clarification on what specifically the company is doing and how it will be used. Mr. Plump explained that the equipment primarily is used in drug development and in proteomics, the large-scale study of proteins, their structures and functions. A piece of equipment is being created, a standard frame manufactured by a company that makes liquid chromatography devices. That device is being customized and programmed by Perfinity/Quadrascpec to make the process more efficient and increase the capability of similar equipment currently on the market. The company has filed an intellectual property claim on the customized equipment. The technology is sold to pharmaceutical companies, to clinical research organizations, to biotech cottage industries, to academic research centers, and to national research centers. The market is broad, but it is all in healthcare. Councilor Burch asked how many people are projected to be employed, if the tax abatement continues. Mr. Plump answered that the largest number of people would be in the manufacturing of the consumables. Within five years, if the business plan is correct, the company could employ hundreds here in West Lafayette.

Mayor Dennis summarized that the tax abatement will assist Perfinity/Quadrascpec in continuing operations with the optimistic outlook of growth. Councilor Burch asked if Mr. Plump and Mr. Chutka would be at the Council meeting on Tuesday. City Attorney Burns answered that they would not. He reported that, at the last meeting, there was a timeframe established by statute by which the City needs to act. That is why the hearing was scheduled for this meeting.

City Attorney Burns stated that the purpose of this hearing, which is an administrative or quasi-judicial hearing, is to further consider the owner's compliance with the Statement of Benefits that was filed, and whether the property owner has made a reasonable efforts to substantially comply with the Statement of Benefits, and whether any failure to substantially comply was caused by factors beyond the company's control. The Council has already made certain determinations at the last meeting, which triggered the ability to ask representatives of the company to come here, which they've now done, and then authorize the Council to make a decision. The decision really is based on the middle language out of what he just dictated for the record. And that is, "Has this organization made reasonable efforts to substantially comply with the Statement of Benefits?" The decision needs to be made at this meeting. It is like any other decision of this body, it is made by majority. There are five Council members present, so it would take four of the five, because that would be a majority of the members-elect. It would take four affirmative votes to do something. That decision is the Council's to make. The vote could be to terminate the tax abatement completely, to reinstate it completely, or something in between. Mr. Burns said that he wanted to make sure that the Council understood its task at this meeting. While it is possible to continue it to the Council meeting on Tuesday [July 6], if the Council were unable to make a determination, he encouraged the Council to make the decision at this meeting, if at all possible.

Mayor Dennis asked for clarification, that the action would be by motion with a roll-call vote. City Attorney Burns confirmed that course of action.

City Attorney Burns reminded the Council that this is almost a self-actuating issue. The company has removed property for which they are no longer receiving tax abatement, yet that

removal from their ownership has not changed its physical location. The property still will be taxed in the City. In that respect, if everything stays the same for the next five years, the City is better off than it was before the abatement. The majority of that property has now been transferred away from the tax abatement, yet stayed within the taxing unit. That is something for the Council to consider.

Councilor Hunt asked if Antech could apply for tax abatement for the equipment. City Attorney Burns answered that the equipment needs to be new equipment, so the transferred items are not eligible for tax abatement.

Councilor Burch asked City Attorney Burns if a final decision is to be made at this meeting, and that the matter will not be considered at the July 6 Council meeting. Mr. Burns responded that Councilor Burch's interpretation was correct. Clerk-Treasurer Rhodes added that tonight is the deadline to affect taxes payable in 2011; the 2010 tax is not under consideration.

Councilor Burch questioned why the tax abatement should be continued. Mr. Chutka answered that the tax abatement would help the company financially get to its goal, to have a successful product on the market, to be able to hire technical employees for manufacturing, and help expand the facility and add additional equipment in the future, if the large-scale manufacturing process is implemented. At the early stage, with the recapitalization, this is a crucial time financially.

Councilor Bunder asked if the Statement of Benefits forms are reviewed each year. Director of Development Poole confirmed that they are.

Councilor Hunt observed that, from the whole City's viewpoint, it seems most reasonable to give the company the tax abatement on what it still has. Clerk-Treasurer Rhodes added that the abatement is applied on the aggregate of their manufacturing equipment, so as long as they have sufficient equipment, even if it is not the equipment for which the abatement was given, the company will still receive the abatement. If the decision is to leave the abatement intact, the company will receive greater tax benefit than the equipment it originally held; it will just apply to other equipment that they have. The numbers Mr. Poole used were the numbers based upon what appears to be the book value of the equipment they have remaining, which is about \$250,000. The tax advantage is in the \$8,000 to \$10,000 range for the next five years. The tax advantage would be larger if you left the abatement intact. Councilor Thomas commented, from an economic development standpoint, hearing that, as the company grows, it is going to have people growing here, living here, paying taxes here, buying homes here, etc., it would seem that the Council should grant the abatement. Understanding start-ups, which Councilor Thomas said he was part of in the Research Park, it is the most critical point for Perfinity/Quadrascpec.

Councilor Hunt asked if it was Councilor Thomas' intention to grant more than the 25% that the company still has. Councilor Thomas no, just for the equipment remaining. Clerk-Treasurer Rhodes summarized that the abatement is a seven-year abatement, with the first year [2007PAY2008] reflecting 100% tax exemption on the property. The second year, 2009, 85%; the third year [2010], 71% tax exemption. In 2011, the rate will be 57%, then 43%, 29%, and 14%, going all the way down the schedule. That schedule is set by statute. Director of Development Poole remarked that the abatement is not a lot each year, but it does contribute to the company's bottom line. Clerk-Treasurer Rhodes advised that the discussion has been about the book value of the equipment remaining, but that the Council has the option of allowing the company to have the abatement at its full level, even though they don't have the equipment.

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Councilor Hoggatt asked what is being requested, given that two different numbers are possible. Clerk-Treasurer Rhodes answered that the Council could do several things. Mayor Dennis said that the Council decision was whether or not the abatement should continue. If the decision is not to continue it, then the matter is concluded. If the decision is to continue the tax abatement, then the question is how large the abatement should be. Councilor Hunt asked if there should be two motions. City Attorney Burns replied that there could be, because the answer to the first motion would lead to the second motion, depending on the decision.

There was no further discussion.

Councilor Burch made the motion that the tax abatement for Quadraspec be continued at some level, because the statutory factors have been satisfactorily explained. Councilor Hunt seconded the motion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Bunder		Dietrich
Burch		Keen
Hoggatt		
Hunt		
Thomas		

Clerk-Treasurer Rhodes announced that the vote was 5-0 in favor of the motion. The motion passed.

City Attorney Burns asked Director of Development Poole for his recommendation for the size of the tax abatement. Mr. Poole responded that the tax abatement should be reflective of what the company currently has in-house. Mr. Burns said that the correct way to state that would be based upon their last Statement of Benefits. Mr. Poole suggested the last CF-1 Form should be used. Clerk-Treasurer Rhodes explained that the City would send a directive to the Auditor and the Assessor, informing them of the Council's decision. City Attorney Burns said that the form of the second motion is that it would be an abatement that would be reflective of the most recent CF-1 Form filed by Quadraspec, if the Council takes Mr. Poole's recommendation.

Councilor Thomas made the motion that the tax abatement should be reflective of the most recent CF-1 Form filed by Quadraspec. Councilor Burch seconded the motion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Bunder		Dietrich
Burch		Keen
Hoggatt		
Hunt		
Thomas		

Clerk-Treasurer Rhodes announced that the vote was 5-0 in favor of the motion. The motion passed.

Clerk-Treasurer Rhodes asked for clarification that the abatement is to conform to the latest CF-

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1 Form and the book value of the equipment eligible for abatement that remains. City Attorney Burns confirmed that the information is on the CF-1 Form.

Mayor Dennis thanked Mr. Plump and Mr. Chutka for answering the questions presented.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 5:25 p.m.